

HOUSE BILL 96

E2

2lr0477

By: Delegates Anderson, Braveboy, Cane, Carter, Clippinger, Conaway, Dumais, Glenn, Hammen, Haynes, Holmes, Howard, Ivey, Jones, K. Kelly, McDermott, McHale, McIntosh, Morhaim, Nathan-Pulliam, Pena-Melnyk, Proctor, B. Robinson, Rosenberg, Stukes, Summers, Tarrant, V. Turner, Vallario, Washington, and Zucker

Introduced and read first time: January 19, 2012

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 29, 2012

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Probation Before Judgment – ~~Subsequent Possession~~**
3 **of a Controlled Dangerous Substance ~~Crime~~**

4 FOR the purpose of authorizing a court to impose probation before judgment for a
5 certain second ~~or subsequent~~ controlled dangerous substance crime if the court
6 requires the defendant to graduate from drug court or successfully complete a
7 substance abuse treatment program as a condition of probation and the
8 defendant meets that requirement; and generally relating to probation before
9 judgment.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Procedure
12 Section 6–220(d)
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2011 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Criminal Procedure**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 6-220.

2 (d) Notwithstanding subsections (b) and (c) of this section, a court may not
3 stay the entering of judgment and place a defendant on probation for:

4 (1) a violation of § 21-902 of the Transportation Article or § 2-503, §
5 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the
6 preceding 10 years the defendant has been convicted under § 21-902 of the
7 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the
8 Criminal Law Article, or has been placed on probation in accordance with this section,
9 after being charged with a violation of § 21-902 of the Transportation Article or §
10 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;

11 (2) a second or subsequent controlled dangerous substance crime
12 under Title 5 of the Criminal Law Article ~~UNLESS THE COURT REQUIRES THE~~
13 ~~DEFENDANT TO GRADUATE FROM DRUG COURT AS A CONDITION OF PROBATION,~~
14 EXCEPT THAT THE COURT MAY STAY THE ENTERING OF JUDGMENT AND PLACE
15 A DEFENDANT ON PROBATION FOR POSSESSION OF A CONTROLLED DANGEROUS
16 SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE IF:

17 (i) THE DEFENDANT HAS BEEN CONVICTED ONCE
18 PREVIOUSLY OF OR RECEIVED PROBATION BEFORE JUDGMENT ONCE
19 PREVIOUSLY FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE
20 UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE;

21 (ii) THE COURT REQUIRES THE DEFENDANT TO GRADUATE
22 FROM DRUG COURT OR SUCCESSFULLY COMPLETE A SUBSTANCE ABUSE
23 TREATMENT PROGRAM AS A CONDITION OF PROBATION; AND

24 (iii) THE DEFENDANT GRADUATES FROM DRUG COURT OR
25 SUCCESSFULLY COMPLETES A SUBSTANCE ABUSE TREATMENT PROGRAM AS
26 REQUIRED;

27 (3) a violation of any of the provisions of §§ 3-303 through 3-307, §§
28 3-309 through 3-312, § 3-315, or § 3-602 of the Criminal Law Article for a crime
29 involving a person under the age of 16 years; or

30 (4) a moving violation, as defined in § 11-136.1 of the Transportation
31 Article, if:

32 (i) the defendant holds a provisional license under § 16-111 of
33 the Transportation Article; and

34 (ii) the defendant has previously been placed on probation
35 under this section for the commission of a moving violation while the defendant held a
36 provisional license.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.